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## Finance Committee

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### HB 2947

**Brief Description:** Establishing firearms-related safety measures.

**Sponsors:** Representatives Valdez, Kilduff, Senn, Peterson, Doglio, Orwall, Walen, Bergquist, Gregerson, Macri and Pollet.

#### Brief Summary of Bill

- Makes it unlawful for a person to manufacture, possess, distribute, import, transfer, sell, offer for sale, purchase, or otherwise transfer a large capacity magazine, except as specifically authorized.
- Allows a person who legally possessed a large capacity magazine prior to the effective date of the act, or a person who inherits a legally possessed large capacity magazine, to continue to possess the large capacity magazine subject to certain restrictions, and provides a number of other exemptions.
- Creates a large capacity magazine buy-back program to be operated by the Washington State Patrol and provides a Public Records Act exemption for the personal information of a person participating in the buy-back program.
- Eliminates tax preferences for sale of precious metals and bullion.
- Provides for quarterly transfers of the proceeds of the taxes imposed on the sales of precious metals and bullion to the Large Capacity Magazine Buy-Back Program Account.

**Hearing Date:** 2/25/20

**Staff:** Edie Adams (786-7180) and Tracey O'Brien (786-7152).

#### **Background:**

##### Large Capacity Magazines.

Washington law does not impose regulations relating to ammunition or ammunition magazines, aside from a requirement that firearms dealers must obtain a license to sell ammunition. State law does impose a number of regulations with respect to certain types of firearms or firearms-

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related devices. With some exceptions, it is a class C felony for a person to manufacture, own, buy, sell, loan, furnish, transport, assemble, repair, or possess a machine gun, bump-fire stock, short-barreled shotgun, or short-barreled rifle, or any part designed for use in one of these weapons.

In 1994 Congress enacted a ban on the manufacture, transfer, and possession of assault weapons and large capacity ammunition feeding devices capable of holding more than 10 rounds of ammunition, but exempted assault weapons and large capacity ammunition feeding devices that were manufactured before the law became effective. This law was subject to a sunset provision and expired in 2004. Some states have adopted laws that prohibit or place restrictions on large capacity magazines, typically defined as magazines capable of accepting more than 10 rounds of ammunition; although, in some states the limit is 15 rounds. Some of these state laws completely ban the manufacture, transfer, or possession of large capacity magazines while others exempt large capacity magazines that were possessed prior to the law's effective date.

#### Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

In addition, a taxpayer may be eligible to utilize other tax preferences, including credits and deductions, to reduce their tax liability. For example, a taxpayer engaging in activities subject to different B&O tax rates may be eligible for a Multiple Activities Tax Credit. A taxpayer may also be eligible for a small business credit that will either eliminate or reduce their B&O tax liability. In general, the credit is \$70 per month for service businesses and \$35 per month for all other businesses, multiplied by the number of months in the reporting period. The amount of the credit available phases out based on the business's gross receipts.

A business does not have to file an annual B&O tax return if the business does not owe other taxes or fees to the Department of Revenue (DOR) and has annual gross proceeds of sales, gross income, or value of products for all B&O tax classifications of less than \$28,000 per year, or less than \$46,667 if at least 50 percent of its taxable income is from services or activities not classified elsewhere.

#### Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

### Coins and Precious Metal Bullion.

Generally, a person does not owe wholesaling B&O, retailing B&O, or retail sales tax on gross income from the sales of precious metal bullion and monetized bullion. Precious metal bullion is any processed, smelted, or refined precious metal valued on its content, not form. Precious metals include gold, silver, platinum, rhodium, and palladium. Monetized bullion is a coin or other form of money made from metal and used as exchange medium under the laws of a government.

Retailing B&O tax is owed, and the sales tax must be collected and reported, on sales of coins that cannot be used as money. Sales of bullion that will be used to manufacture items such as jewelry or works of art are subject to wholesaling B&O if a reseller permit is provided. Retailing B&O and retail sales tax applies to sales of such items to consumers.

If a person receives commissions from the sales of precious metal bullion and monetized bullion paper currency, the person must pay service and other activities B&O tax.

### **Summary of Bill:**

#### Large Capacity Magazine Regulations.

A "large capacity magazine" is an ammunition feeding device with the capacity to accept more than 15 rounds of ammunition, or a conversion kit or parts from which the device may be assembled if in the possession of the same person. "Large capacity magazine" does not include: an ammunition feeding device that has been permanently altered so that it cannot accept more than 15 rounds of ammunition; a .22 caliber tube ammunition feeding device; or a tubular magazine contained in a lever-action firearm.

A person may not manufacture, possess, distribute, import, transfer, sell, offer for sale, purchase, or otherwise transfer a large capacity magazine except as specifically authorized. A violation is a gross misdemeanor offense.

The offense does not apply to possession of a large capacity magazine by a person who legally possessed the large capacity magazine prior to the effective date of the act, or a person who acquires possession of the large capacity magazine by inheritance from a person who legally owned the large capacity magazine. The following restrictions apply to persons who legally possess a large capacity magazine under these circumstances:

- The large capacity magazine may not be sold or transferred to any other person in Washington other than a licensed dealer, a licensed gunsmith for purposes of service or repair, or a law enforcement agency for purposes of permanent relinquishment of the large capacity magazine.
- The large capacity magazine must be stored in a secure gun storage; and
- The large capacity magazine may be possessed only: on property owned or immediately controlled by the person; while engaged in the use of the large capacity magazine at a licensed shooting range; while engaged in a lawful outdoor recreational activity such as hunting; or while traveling to or from these locations, if the large capacity magazine is stored unloaded and in a separate locked container during transport.

Exemptions are provided from the prohibitions relating to large capacity magazines for the following persons and activities:

- government officers, agents, employees, or government contractors hired to provide firearms training to law enforcement, while acting within the scope of official duties;
- federally-licensed manufacturers and dealers for the purposes of sale to the Armed Forces of the United States or Washington, or to a law enforcement agency for use by the agency or its officers;
- the possession, offering for sale, sale, importation, or transfer of a large capacity magazine by a licensed dealer if it is acquired from a person authorized to possess or transfer the large capacity magazine for the purpose of transferring it to a person who does not reside in Washington;
- the transfer to and possession of a legally possessed large capacity magazine by a licensed gunsmith for purposes of service or repair, and return of the large capacity magazine to the lawful owner;
- the importation or possession of a large capacity magazine by a club or organization established for the purpose of sponsoring sport shooting events, and by a person for the purpose of lawfully participating in an officially sanctioned sport shooting event;
- law enforcement officers of this or another state, and state and local corrections officers, while acting within the scope of official duties, including authorized possession while not on duty;
- the possession of a large capacity magazine by law enforcement officers retired for service or physical disabilities, if acquired as part of the officer's separation from service;
- members of the Armed Forces of the United States or Washington, or of the National Guard or military reserves, while acting within the scope of official duties;
- persons while otherwise lawfully engaged in shooting at a licensed, lawfully operated shooting range; or
- the possession or transfer of a large capacity magazine for the purpose of permanently relinquishing it to a law enforcement agency in this state, which must destroy the relinquished large capacity magazine.

#### Large Capacity Magazine Buy-Back Program.

The Washington State Patrol (WSP) must establish and administer a large capacity magazine buy-back program to allow a person to relinquish up to five large capacity magazines in exchange for a monetary payment in an amount determined by the WSP based on fair market value. The WSP must implement the buy-back program between July 1, 2020, and June 30, 2021, in locations in regions across the state.

The WSP must adopt rules to implement the program, including the method for providing monetary payments and guidelines for the destruction or other disposition of relinquished large capacity magazines. The large capacity magazine buy-back program is subject to the availability of funds appropriated for this specific purpose and a person does not have a right or entitlement to receive a monetary payment under the buy-back program. The program must operate on a first-come, first-served basis and no payments may be made that would require the WSP to exceed the amount appropriated for this purpose.

The names, addresses, or other personal information of individuals who participate in the large capacity magazine buy-back program are exempt from disclosure under the Public Records Act.

Tax Provisions.

The B&O exemption tax on the sale of precious metals and bullion is repealed. In addition, the retail sales tax exemption for the sale of precious metals and bullion is repealed.

On a quarterly basis, the DOR must calculate the proceeds of the imposition of the B&O and retail sales tax on sale of precious metals and bullion received. On the last day of the quarter, beginning September 30, 2020, the State Treasurer must transfer that amount into the newly created large capacity magazine buy-back program account. Moneys in the account must be used only to fund the buy-back program administered by the WSP and created by this act. The transfers to the account end January 1, 2022.

**Appropriation:** None.

**Fiscal Note:** Requested on February 20, 2020.

**Effective Date:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except sections 6 and 7, relating to the repeal of the precious metal bullion and monetized bullion tax preference, which take effect April 1, 2020.